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January 3, 2011

Ms. Sharon Gillett, Chief
Wireline Competition Bureau
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Reference: Docket No. 02-60

Dear Ms. Gillett:

The West Virginia Telehealth Alliance would like to express its support for the Michigan Public Health Institute's request (dated Nov. 17, 2010) in which the organization is seeking a waiver so it can use Rural Health Care Pilot Program (RHCPP) funds beyond the date of the issuance of an initial funding commitment letter. A copy of the Michigan letter is attached with this letter. The West Virginia Telehealth Alliance would like to request a similar waiver for its RHCPP program.

As you may know, the West Virginia Telehealth Alliance is one of the entities that received funding as part of the FCC's RHCPP. We have been working to provide advanced broadband connections across our state in fulfillment of our RHCPP application. To date we have received seven RHCPP funding commitment letters, which will provide for advanced broadband connections and subsidy support for more than 100 health care locations across our rural state.

Our most recent five funding commitment letters will provide broadband services and enhancements to 93 eligible health care locations. Each elected to participate and sign contracts as part of our RHCPP RFP process. The complexity of aggregating so many diverse and diffused entities across our state and processing a competitively bid RFP took much more time than we had anticipated. More than a year separates the time from when our first funding commitment letter was issued (Sept. 17, 2009 for our Metro Fiber Project) than from when the FCLs were issued under this broader RFP. When we factor in the additional time it will take to implement all contracts and begin invoicing, then this time period will grow to 18+ months.

If the alliance is bound by the issuance date of the alliance's first RHCPP FCL, then we may not be able to provide the maximum possible RHCPP benefit to these 93 health care entities. Given other RHCPP implementation issues that have developed across the nation, we believe the WVTa's waiver request will cause no additional administrative burden on USAC or the FCC.

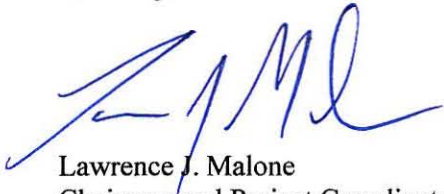
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I also want to note that many of the entities that would receive maximum RHCPP funding, if this waiver is granted, are those in rural communities and ones that continue to struggle not only to improve their telemedicine capabilities but also to maintain a business model to balance their budgets. If the WVTA is unable to obtain this waiver, then a good portion of the state's RHCPP may be lost, and the full benefit of the RHCPP may not be realized.

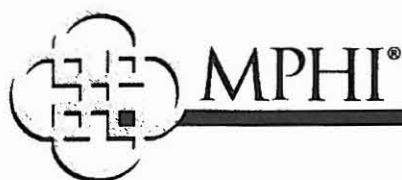
The West Virginia Telehealth Alliance respectfully requests a waiver of FCC Order 07-198 Paragraph 94 and an extension of our ability to invoice through December 21, 2015.

Please contact me if you have any questions about the alliance or this request.

Sincerely,

A handwritten signature in blue ink, appearing to read 'LJ Malone', is positioned above the typed name.

Lawrence J. Malone
Chairman and Project Coordinator
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November 17, 2010

Sharon Gillett, Chief
Wireline Competition Bureau
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Reference: Docket No. 02-60

Dear Ms. Gillett:

The Michigan Public Health Institute (MPHI), the Michigan participant in the Rural Health Care Pilot Program, requests a waiver of Paragraph 94 of FCC Order 07-198 (Nov. 2007)—which established the deadline for USAC's processing of Pilot Program invoices as five years from the date of the *initial* FCL—and FCC Order DA 10-263 (Feb. 18, 2010), which affirmed the Paragraph 94 invoicing deadline.

Background

In 2008 MPHI recruited several hundred potential sites for a statewide health care network. Those sites were submitted to USAC for an informal eligibility review. We were told that the review would take one month, but it took five. In the meantime, Congress passed the American Recovery and Reinvestment Act of 2009, and it soon became clear that a large amount of fiber backbone would be built with stimulus funds. When MPHI learned that fiber backbone would probably be built in several major corridors in Michigan, we decided that it was in the public interest to delay our project until specific plans were announced so that bidders on our RFP could take advantage of the backbone and build the Pilot Program network *at a much lower cost*. If our project's low-cost bidder had *not* waited for middle-mile fiber plans to become clear, the Pilot Program would have ended up (1) paying for fiber that parallels stimulus-funded fiber and (2) paying more per mile, wasting taxpayer dollars on duplicative federally funded projects.

As a result of waiting, our RFP was not posted until November 2009, and a vendor was not selected until mid-April 2010. However, during this time Michigan's anemic economy had compelled many potential network participants to drop out because they could not afford the 15 percent share of the cost. To ensure that *some* sites could afford to join the network, MPHI extended its operating subsidy from the originally planned 12

months to 24 months. As a direct result of the extension of the monthly subsidy, 88 sites committed.

In the meantime, the vendors building the “middle-mile” fiber backbone in Michigan announced their construction plans. Under the NTIA rules for building the fiber, it does not have to be completed until mid-2013. The vendor that submitted the low bid on our project plans to use that fiber for more than 60 percent of our network’s sites. Therefore, many sites in our project would not be turned up until mid- to late 2013. With two years of operating subsidies, invoicing for our project could continue through the end of 2015.

The problem for MPHI is that we have already completed a small project (two RFPs) to help a consortium of eight rural hospitals complete a wireless network that will be joined to the larger statewide network. Using Pilot Program funds to build out the hospital network was in the public interest: the hospital consortium, which had invested a considerable amount of health care dollars in the network, could not complete it without help. The timing of the project allowed the consortium to take advantage of funding from the Health Resources and Services Administration (HRSA) and reduce the percentage of Pilot Program funding that was used from 85% to 75%. This project required USAC to issue two Funding Commitment Letters (FCLs) to MPHI, in September and October of 2009. That started MPHI’s five-year invoicing clock ticking. Unaware that the middle-mile fiber would take so long to build and that our vendor would depend on it for a majority of our sites, MPHI did not realize it had a timing problem.

But it is now apparent that we do. Over 60 percent of our statewide network sites will use the stimulus-funded fiber backbone that will not be completed until mid-2013. But we have promised sites 24 months of subsidies for their monthly network service costs. If the last sites are brought online in mid- to late 2013, they won’t be finished with Pilot Program invoicing until the fall of 2015. However, that may be as long as 15 months past our Paragraph 94 invoicing deadline of September 24, 2014. Therefore, MPHI needs an extra 15 months to process invoices so it can completely build out the 88-site network.

Request for Waiver

MPHI requests a waiver of the FCC 07-198 Paragraph 94 invoicing deadline for fifteen (15) months, which would permit USAC to process MPHI invoices until mid-December 2015. Alternatively, if the FCC wishes to extend an exception to *all* Pilot Program participants, the FCC could—largely without any administrative impact on USAC—amend Paragraph 94 to read “from the date of *each* FCL” rather than the current “from the date of *the first* FCL.”

Rationale for Waiver

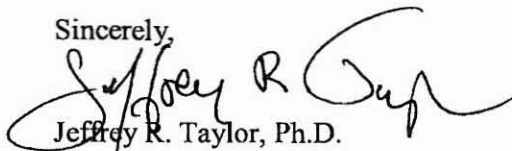
1. **Public interest.** The invoice processing deadline established by Paragraph 94 of FCC Order 07-198 and confirmed by DA 10-263 does not take into account the massive, stimulus-funded broadband effort that followed the establishment of the Pilot Program. The Federal government has funneled billions of stimulus dollars into the Broadband Initiatives Program (BIP) and the Broadband Technology

Opportunities Program (BTOP). BIP and BTOP are designed to deploy broadband infrastructure in un-served and underserved areas in the United States. Pilot Program funds will be used much more effectively if they can piggyback on the massive amount of middle-mile fiber that BIP and BTOP will build rather than having federal dollars build separate, parallel, duplicative networks. But stimulus-funded fiber backbone construction won't be completed for several years; in Michigan, the expected completion date is mid-2013. MPHI will need an extra 15 months of invoicing so it can piggyback its network on top of the BTOP-funded infrastructure.

2. **Administrative inequity.** Other Pilot Program participants that wait until mid-2011 to submit their first Form 466 package will be able to invoice until mid-2016. But because Michigan submitted two Form 466 packages for a small, eight-site project, we will be unable to invoice past September 2014. We do not think it was the FCC's intent to administratively handicap Michigan and scores of its health care providers through a relatively arbitrary deadline.
3. **Earlier FCLs were for a separate project.** Although the eight-hospital wireless network will connect to the statewide network, they are two *separate* projects and have always been treated as such. MPHI has always been clear that its primary project is the *statewide* network. While USAC issued two FCLs to us in the fall of 2009, it has yet to issue an FCL for our *primary* statewide project.
4. **No administrative burden on USAC or the FCC to grant waiver.** Some projects will probably receive their first FCLs in 2011 and thus be able to invoice through 2016. Therefore, extending MPHI's invoicing deadline from September 24, 2014, to December 24, 2015, will *not* place an administrative burden on USAC or the FCC, as USAC is already obligated to process invoices through 2016.
5. **Negative impact on Michigan's economy if the waiver request is refused.** Michigan has been hit hard by the economic downturn. Michigan has had the highest or second highest unemployment rate in the country through most of 2009 and 2010. If MPHI is unable to obtain the requested waiver, much of the Pilot Program award to Michigan could be lost, to the detriment of our local, rural economies.

The requested waiver will allow MPHI to move forward with its statewide network, which will benefit Michigan's rural health care providers and its rural citizens. Therefore, MPHI respectfully requests a waiver of FCC Order 07-198 Paragraph 94 and an extension of our ability to invoice through December 24, 2015.

Sincerely,


Jeffrey R. Taylor, Ph.D.
Executive Director
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